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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,310	09/30/2003	Steven D. Ruben	22044-00005-US	5252
23416	7590	08/02/2004		
CONNOLLY BOVE LODGE & HUTZ, LLP P O BOX 2207 WILMINGTON, DE 19899				
			EXAMINER	
			PAYER, HWEI SIU CHOU	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 08/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/674,310	Applicant(s) RUBEN, STEVEN D.	
	Examiner Hwei-Siu C. Payer	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9-30-2003</u> . | 6) <input type="checkbox"/> Other: ____. |

Detailed Action

Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 4-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cram (U.S. Patent No. 885,44) in view of Bentley (U.S. Patent No. 724,246).

Cram discloses a hand utensil (Fig.3) comprising a spoon-shaped bowl (1) having a proximal end and a distal end and defining an axis extending from the proximal end to the distal end, said bowl (1) having a convex surface and concave surface, a series of evenly spaced arcuate ridges (9) projecting from the concave surface of the bowl (1), and a handle (2) as claimed except the bowl (1) lacks a plurality of slots.

Bentley shows a hand utensil comprising a spoon-shaped bowl (3) comprising a plurality of parallel slots (4) extending therethrough and oriented generally perpendicularly to an axis extending from the proximal end to the distal end of the bowl (3).

It would have been obvious to one skilled in the art to modify Cram' hand utensil by providing the bowl (1) with a plurality of slots to facilitate passing of food stuffs during mixing and beating of the food stuffs as taught by Bentley.

It is noted claims 9-12 recite the ranges for the radius of curvature, the pitch, the depth of cut and the face angle, respectively, of the arcuate ridges.

However, the claimed ranges are not patentably distinct over Cram as modified. To select certain ranges for the radius of curvature, the pitch, the depth of cut and the face angle of Cram's arcuate ridges would have been obvious to one having ordinary skill in the art, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233 (CCPA 1955). Further, as evidenced (on page 3 of Applicant's specification), the claimed ranges are merely "preferably" and, therefore, not patentably distinct.

3. Claims 2, 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cram (U.S. Patent No. 885,444) and Bentley (U.S. Patent No. 724,246) as applied to claim 1 above, and further in view of Kupiszewski (U.S. Patent No. 1,288,617).

Cram's hand utensil as modified above shows all the claimed structure except the bowl (1) and the handle (2) are formed of one integral piece rather than two pieces joined together by engaging means, and the utensil lacks a retractable knife blade disposed within the handle (2).

Kupiszewski shows a hand utensil comprising a handle (10,12), a spoon-shaped bowl (20) and means (18) for engaging the spoon-shaped bowl (20) to the handle

(10,12), the proximal end of the bowl (20) formed into a shaft (21) and inserted into a portion of a handle (10,12), and a retractable knife blade (29) disposed within the handle (see column 2, lines 77-78).

It would have been obvious to one skilled in the art to further modify Cram's hand utensil by making the bowl (1) and the handle (2) of two separate pieces and joined together by engaging means, and providing the utensil with a retractable knife blade disposed within the handle to allow folding of the bowl alongside of the handle for a compact configuration when not in use, and to afford extra utility of the hand utensil, respectively, as taught by Kupiszewski.

Prior Art Citations

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ford, Olander, Woods, Isaacs, Darr, Haynes, Wellinger, Carroll et al., Lovell et al. and Intini, Jr. are cited as art of interest.

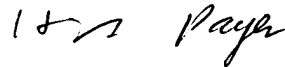
Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 703-308-1405. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 703-746-3293 for proposed amendments.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

H Payer
July 29, 2004



Hwei-Siu Payer
Primary Examiner